

1 MARC HENRI DAVID
1138 Solano Avenue
2 Bay Point, California, 94565
3 (925) 382-8045
4 Email: studiomh@yahoo.com
Pro Se Plaintiff

FILED

JUL 03 2024

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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7
8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

DMR

11 MARC HENRI DAVID

) Case No.:

C24-04040

12
13 Plaintiff,

)
) **COMPLAINT**
)

14 vs.

)
) DEMAND FOR JURY TRIAL
)

15 GEORGE CHIALA FARMS, INC.,

16 JEFF NUNES (General Counsel for

17 GCFarms, Inc.)

18
19 Defendant(s).
20
21

22
23 **PARTIES**

24 1. Plaintiff.

25 Name: Marc Henri David

26 Address: 1138 Solano Avenue, Bay Point, CA, 94565

27 Telephone: 925-382-8045

28 2. Defendants.

1 3. Defendant 1:

2 Name: George Chiala Farms, Inc.

3 Address: 18625 Sutter Blvd., Suite 600, Morgan Hill, CA 95037

4 Telephone: 408-778-0562

5 4. Defendant 2:

6 Name: Jeff Nunes (General Counsel for GCFarms, Inc).

7 Address: 18625 Sutter Blvd., Suite 600, Morgan Hill, CA 95037

8 Telephone: 408-612-7502

9 **JURISDICTION**

- 10 5. This court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the laws
11 of the United States, specifically the Copyright Act (17 U.S.C. § 501).

12
13 **VENUE**

- 14 6. Venue is proper in this district under 28 U.S.C. § 1391 (b) because a substantial part of the
15 events giving rise to the claims occurred in this district and the defendants are subject to
16 personal jurisdiction in this district.

17
18 **INTRADISTRICT ASSIGNMENT**

- 19 7. This action arises in the Northern District of California, which is where the defendants
20 reside and where a substantial part of the events or omissions giving rise to the claim
21 occurred.

22
23 **STATEMENT OF FACTS**

- 24 8. Plaintiff, Marc Henri David, is the owner of the copyrighted logotype used by George
25 Chiala Farms, Inc.
26 9. Plaintiff created the logotype for George Chiala Farms, Inc. without transferring copyright
27 ownership.
28

1 10. Plaintiff registered the copyright for the logotype prior to any trademark filings by George
2 Chiala Farms, Inc. (Exhibit A: Plaintiff's copyright registration with the U.S. Copyright
3 Office).

4 11. On June, Friday 21, 2024, Plaintiff discovered that George Chiala Farms, Inc. filed a
5 trademark application using the logotype created by Plaintiff, falsely claiming legal
6 ownership by indicating on the application form that they were the legal owner of the mark
7 (Exhibit B: Defendants' trademark application).

8 12. The trademark application filed by Defendant 2, Jeff Nunes, on behalf of George Chiala
9 Farms, Inc., includes a false statement in the section where it asks for "owner of the mark"
10 Mr. Nunes confirmed (falsely) that "George Chiala Farms, Inc." is the owner of the mark.

11 13. Plaintiff's copyright registration predates the trademark filing by George Chiala Farms, Inc.

12 14. Plaintiff informed George Chiala Farms, Inc. of the copyright ownership and requested the
13 company cease using the copyrighted materials without proper licensing following a
14 breakdown in negotiations and an ultimatum issued by the company, which effectively
15 terminated any previous verbal agreements.

16 15. George Chiala Farms, Inc. has continued to use the copyrighted logotype without permission
17 from the Plaintiff, despite being aware of Plaintiff's copyright ownership.

18 19 CLAIMS

20 First Claim

21 Name the law or right violated: Copyright Act (17 U.S.C. § 501)

22 Name the defendants who violated it: George Chiala Farms, Inc., Jeff Nunes.

23
24 16. Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

25 17. Defendants infringed Plaintiff's exclusive rights under 17 U.S.C. § 106 by using the
26 copyrighted logotype without authorization.

27 18. The infringement has been willful, as demonstrated by the false claims of ownership in the
28 trademark application and continued use despite Plaintiff's notifications.

1 19. Exhibit A is Plaintiff's copyright registration, which predates Defendants' trademark
2 application.

3 20. Exhibit B is Defendants' trademark application, showing the false claim of ownership and
4 the date of filing.

5 21. As a result of Defendants' actions, Plaintiff has suffered damages and is entitled to recover
6 damages pursuant to 17 U.S.C. § 504 and costs pursuant to 17 U.S.C. § 505
7

8 **DEMAND FOR RELIEF**

9 22. Plaintiff requests the Court to:

- 10 • Award actual damages and any additional profits of the Defendants attributable to the
11 infringement, or statutory damages as provided by 17 U.S.C. § 504.
12 • Issue an injunction preventing the Defendants from further infringing Plaintiff copyrighted
13 materials.
14 • Order the Defendants to pay Plaintiff's costs and attorneys' fees as provided by 17 U.S.C.
15 § 505.
16 • Grant any other relief the Court deems just and proper.
17

18 **DEMAND FOR JURY TRIAL**

19 23. Plaintiff demands a jury trial on all issues.
20

21 Respectfully submitted,

22 DATED: July 3, 2024

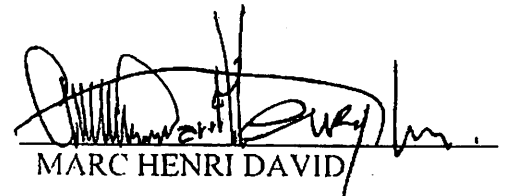
23 
24 MARC HENRI DAVID
25
26
27
28



Exhibit -A-

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shira Perlmutter

United States Register of Copyrights and Director

Registration Number

VA 2-256-316

Effective Date of Registration:

May 24, 2021

Registration Decision Date:

June 25, 2021



Title

Title of Work: GC Farms

Nature of Claim: Logo Type

Completion/Publication

Year of Completion: 2000

Date of 1st Publication: May 20, 2000

Nation of 1st Publication: United States

Author

- Author: Marc Henri David
- Author Created: 2-Dimensional artwork
- Work made for hire: No
- Citizen of: United States
- Year Born: 1939
- Anonymous: No
- Pseudonymous: No

Copyright Claimant

Copyright Claimant: Marc Henri David
1138 Solano Ave, Bay Point, CA, 94565

Certification

Name: Marc Henri David

Date: May 15, 2021

Copyright Office notes: Regarding basis for registration: Registration based on the artwork in the logo.

Copyright does not protect names, titles, short phrases or slogans. 37 CFR 202.1.

Exhibit B

USPTO
.report

Trademarks Patents Copyright

Search

Application

GC FARMS

George Chiala Farms, Inc.

USPTO.report / George Chiala Farms, Inc. / GC FARMS Application #90740040 / Application

Trademark/Service Mark Application, Principal Register

PTO- 1478

Approved for use through 05/31/2021. OMB 0651-0009

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Trademark/Service Mark Application, Principal Register

Serial Number: 90740040

Filing Date: 05/27/2021

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	90740040
MARK INFORMATION	
*MARK	\\TICRS\EXPORT18\IMAGEOUT 18\907400\90740040\xml1 \ APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	GC FARMS
COLOR MARK	YES
COLOR(S) CLAIMED (If applicable)	The color(s) black, white, red, green, yellow, purple, grey, brown is/are claimed as a feature of the mark.
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the capital letters GC in large black ITC Century Std Bold Condensed font, underlined in black. The capital letters FARMS in smaller sized black ITC Century Std Bold Condensed font, underlined in black. Forming a rough semi-circle beginning on the left side about half way up the letter G going under the word FARMS and up to half way up the right side of the letter C are images of vegetables beginning on the left side with a purple red onion, two black, white, grey and brown mushrooms, one yellow potato, five white and black full garlic bulbs, one smaller black and white garlic clove, one green and black sprig of basil leaves, three green and black jalapeno peppers, a single green and black jalapeno pepper which stem and tip curve to the left, and a red and black, with a green stemmed red pepper.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	844 x 485
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	George Chiala Farms, Inc.
*MAILING ADDRESS	15500 Hill Rd.
*CITY	Morgan Hill
*STATE (Required for U.S. applicants)	California
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	95037
PHONE	408-612-7502
*EMAIL ADDRESS	XXXX
WEBSITE ADDRESS	www.gcfarms.com

LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY OF INCORPORATION	California
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	029
*IDENTIFICATION	Processed vegetables
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/01/2000
FIRST USE IN COMMERCE DATE	At least as early as 03/01/2000
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-6818651148-202105271 85001249502_..orge_Chiala_Farms_-_Quality_California_Vegetable_Ingredients.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT18\IMAGEOUT 18\907400\90740040\xml1\APP0003.JPG
SPECIMEN DESCRIPTION	GC Farms website landing page
WEBPAGE URL	www.gcfarms.com
WEBPAGE DATE OF ACCESS	05/27/2021
ATTORNEY INFORMATION	
NAME	Jeff Nunes
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
STREET	15500 Hill Rd.
CITY	Morgan Hill
STATE	California
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	95037
PHONE	408-612-7502
EMAIL ADDRESS	j6nunes@gmail.com
CORRESPONDENCE INFORMATION	
NAME	Jeff Nunes
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	j6nunes@gmail.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	jeff.nunes@gcfarms.com
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Standard
NUMBER OF CLASSES	1
APPLICATION FOR REGISTRATION PER CLASS	350
*TOTAL FEES DUE	350
*TOTAL FEES PAID	350
SIGNATURE INFORMATION	
SIGNATURE	/jeff nunes/
SIGNATORY'S NAME	Jeff Nunes
SIGNATORY'S POSITION	General Counsel
SIGNATORY'S PHONE NUMBER	408-612-7502
DATE SIGNED	05/27/2021
SIGNATURE METHOD	Signed directly within the form

PTO- 1478

Approved for use through 05/31/2021. OMB 0651-0009

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Trademark/Service Mark Application, Principal Register

Serial Number: 90740040

Filing Date: 05/27/2021

To the Commissioner for Trademarks:

MARK: GC FARMS (stylized and/or with design, see mark)

The literal element of the mark consists of GC FARMS. The color(s) black, white, red, green, yellow, purple, grey, brown is/are claimed as a feature of

the mark. The mark consists of the capital letters GC in large black ITC Century Std Bold Condensed font, underlined in black. The capital letters FARMS in smaller sized black ITC Century Std Bold Condensed font, underlined in black. Forming a rough semi-circle beginning on the left side about half way up the letter G going under the word FARMS and up to half way up the right side of the letter C are images of vegetables beginning on the left side with a purple red onion, two black, white, grey and brown mushrooms, one yellow potato, five white and black full garlic bulbs, one smaller black and white garlic clove, one green and black sprig of basil leaves, three green and black jalapeno peppers, a single green and black jalapeno pepper which stem and tip curve to the left, and a red and black, with a green stemmed red pepper.

The applicant, George Chiala Farms, Inc., a corporation of California, having an address of
 15500 Hill Rd.
 Morgan Hill, California 95037
 United States
 408-612-7502(phone)
 XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 029: Processed vegetables

In International Class 029, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 03/01/2000, and first used in commerce at least as early as 03/01/2000, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) GCFarms website landing page.

Original PDF file:

SPE0-6818651148-202105271 85001249502_-_orge_Chiala_Farms_-_Quality_California_Vegetable_Ingredients.pdf

Converted PDF file(s) (1 page)

Specimen File1

Webpage URL: www.gcfarms.com

Webpage Date of Access: 05/27/2021

For informational purposes only, applicant's website address is: www.gcfarms.com

The owner's/holder's proposed attorney information: Jeff Nunes. Jeff Nunes, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at

15500 Hill Rd.
 Morgan Hill, California 95037
 United States
 408-612-7502(phone)
 j6nunes@gmail.com

Jeff Nunes submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Jeff Nunes

PRIMARY EMAIL FOR CORRESPONDENCE: j6nunes@gmail.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): jeff.nunes@gcfarms.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$350 has been submitted with the application, representing payment for 1 class(es).

Declaration

Basis:

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
 The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection
- with the goods/services in the application;

The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used

- on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in
- commerce as of the application filing date on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /jeff nunes/ Date: 05/27/2021

Signatory's Name: Jeff Nunes

Signatory's Position: General Counsel

Signatory's Phone Number: 408-612-7502

Signature method: Signed directly within the form

Payment Sale Number: 90740040

Payment Accounting Date: 05/27/2021

Serial Number: 90740040

Internet Transmission Date: Thu May 27 20:01:56 ET 2021

TEAS Stamp: USPTO/BAS-XX.XXX.XX.XXX-2021052720015690

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C-01550006-20210527185001249502

Application [image/jpeg] [↗](#)

Application [image/jpeg]



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CELERY	RED JALAPENOS
CHIPOTLES	TOMATILLOS
GREEN BELL PEPPERS	TOMATOES
GREEN	WHITE ONIONS
JALAPENOS	YELLOW ONIONS
GARLIC	ZUCCHINI
PORTABELLAS	

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2021 Spring Harvest has begun!

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NEW CREATIONS!

IQF YELLOW CARROTS



Diced & Ready to Use!

George Chiala Jr. shares his love of the culinary arts by presenting a Recipe each month incorporating both fresh and prepared ingredients right from the Chiala Farm.

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GEORGE'S RECIPE OF THE MONTH: APR '21

Creamy Lemon Chicken Scallopini



George Chiala Jr. shares his love of the culinary arts by presenting a Recipe each month incorporating both fresh and prepared ingredients right from the Chiala Farm.

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COMPANY

[Contact](#)
[Company Info](#)
[Site Info](#)

GLOSSARY OF PROCESSING TERMINOLOGY

Freezing	Oil Infusion	Roasting	Shelf Stable
Blast Freezing		Fire Roasting	Acidifying
Cold Packing		Oil Roasting	Dehydration
IQF		Oven Roasting	Dehydro-brining
		Sauteing	Pasteurizing

DOWNLOADS

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CATALOG REQUEST

[GC Farms Catalog](#)

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Exhibit -B-